

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

NINO JUSTICE PASCAL,

Petitioner,

v.

ACTION NO. 2:21cv558

COLONEL PERRY,
Director Caroline Detention Facility,

TAE JOHNSON,
*Director, United States Immigration
and Customs Enforcement,*

Respondents.

FINAL ORDER

Petitioner Nino Justice Pascal, previously a detainee of United States Immigration and Customs Enforcement (“ICE”) at the Caroline Detention Facility in Bowling Green, Virginia, filed a *pro se* petition, pursuant to 28 U.S.C. § 2241 seeking release or a bond hearing. ECF No. 1. ICE released Pascal from custody and deported him after the petition was filed. ECF No. 8-1, at 3. Respondents filed a motion to dismiss the petition for lack of jurisdiction on March 22, 2022. ECF No. 7.

The petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(A) and (B). ECF No. 4. The Magistrate Judge’s report and recommendation filed May 5, 2022, recommends that respondents’ motion to dismiss (ECF No. 7) be granted, and the petition for a writ of habeas corpus (ECF No. 1) be denied and dismissed without prejudice for lack of jurisdiction. Pascal has not filed objections to the report and recommendation, and the time for filing objections has expired. The Court does

hereby accept the findings and recommendations set forth in the report and recommendation, and it is therefore **ORDERED** that respondents' motion to dismiss (ECF No. 7) be **GRANTED**, and the petition for a writ of habeas corpus (ECF No. 1) be **DENIED** and **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction.

Pascal has failed to demonstrate "a substantial showing of the denial of a constitutional right," and, therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 537 U.S. 322, 327, 335–36 (2003).

Pascal is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. R. App. P. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). **If Pascal intends to seek a certificate of appealability from the Fourth Circuit, he must do so within thirty (30) days from the date of this Final Order. Pascal may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.**

The Clerk shall forward a copy of this Final Order to counsel for the respondents and to petitioner at his address of record.

/s/
Arenda L. Wright Allen
United States District Judge

Norfolk, Virginia
June 16, 2022